

ORDINANCE NO. 2018-08

ORDINANCE OF THE BOROUGH OF RED BANK,  
COUNTY OF MONMOUTH, NEW JERSEY  
AMENDING AND SUPPLEMENTING  
SECTION 562, "SIDEWALK CAFES AND RESTAURANTS"

Councilman Taylor offered the following ordinance and moved its introduction:

**BE IT ORDAINED** by the Governing Body of the Borough of Red Bank that Section 562 of the Revised General Ordinances of the Borough of Red Bank, Monmouth County, "Sidewalk Cafes and Restaurants," is hereby amended and supplemented as follows:

**SECTION ONE:** Chapter 652, "Sidewalk Cafes and Restaurants," is amended and supplemented as follows: (*strikeouts denote deletions, underlined text denote additions*):

**Chapter 562 SIDEWALK CAFES AND RESTAURANTS**

**562-1 License Required.** Sidewalk cafes and restaurants may be established as an ancillary use to a permitted restaurant, retail food establishment with greater than 7,000 s.f. of gross floor area, club or primary liquor service establishment in any zoning district that permits restaurants, retail food establishments, clubs or primary liquor service establishments or has been approved by the Zoning Board for a combination or hybrid of such uses. No person, however, shall establish, maintain, own or operate a sidewalk café or restaurant nor serve food liquor or other beverages on any public street, sidewalk or alleyway without first having obtained a license from the Clerk of the Borough of Red Bank. It is recommended that applicants located within the Special Improvement District consult with the Special Improvement District of Red Bank, Inc. (RiverCenter) prior to submitting any application.

**562.2 Application, Investigation, Issuance or Denial.**

- a. Application to Borough Clerk. [No Change]
- b. Referral of Application to the Special Improvement District of Red Bank, Inc. [No Change]
- c. Referral to the Chief of Police Office of Code Enforcement
1. ~~The Borough Clerk, upon receipt of the written report from the Special Improvement District, or the expiration of the fifteen (15) days, shall forward the application to the Chief of Police Office of Code Enforcement who shall conduct an investigation, including consultation with the Borough's Construction and Fire Code Officials, and review the data contained in the application and in the report of the Special Improvement District. Upon completion of the investigation by the Chief of Police Code Enforcement Officer, he will make a report and recommendation to the Mayor and Council.~~
2. ~~If the premises subject to the application are not located within the Special Improvement District, the Borough Clerk shall promptly forward the application to the Chief of Police who shall conduct an investigation, including consultation with the Borough's Construction and Fire Code Officials fire prevention officials, and review the data contained in the application and, thereafter, make a report and recommendation to the Mayor and Council.~~
- d. Action by Mayor and Council.

The Mayor and Council will review the report of the ~~Chief of Police~~ Code Enforcement Officer, the application and the report, if any, of the Special Improvement District. The Mayor and Council shall issue or deny the license as in their unlimited discretion they deem appropriate. The Mayor and Council shall take into consideration the location, potential interference with pedestrian or

vehicular traffic, appropriateness of design, the business record of the applicant, any proposed public safety, health and welfare considerations. It is contemplated that no less than five feet of unobstructed sidewalk shall be open and maintained for pedestrians, and that no chairs, tables, or other property shall be located, whether in use or not, within three feet of any curb. Any umbrella or other cover shall maintain a clearance of not less than seven feet for the fabric and not less than eight feet for any frame or rigid material. No license shall be issued until a resolution of the Mayor and Council of the Borough authorizing the issuance of a license shall have been adopted.

### **562.3 Application Fees and Licensing Fees.**

Any person submitting an application for a sidewalk cafe or restaurant permit, extension permit, or renewal thereof, shall submit an annual application fee in the amount of one hundred (\$100.00) dollars with said application. Should an application be approved by the Mayor and Council of the Borough by resolution as specified herein, the applicant shall pay an ~~annual~~ initial licensing fee in the amount of two (\$2.00) dollars per square foot of sidewalk utilized for said sidewalk cafe or restaurant per permit or permit extension. Applicants seeking renewals of said licenses or permit extensions shall pay an annual licensing fee in the second and all subsequent years in the amount of four (\$4.00) dollars per square foot of sidewalk area utilized for the sidewalk cafe or restaurant. Any changes in plans shall require a new application and fee. No sidewalk café application will be accepted if there remains an outstanding balance on the applicant's previous year's permit fees.

### **562-4 Season Term.**

- a. ~~Any and all licenses issued pursuant to the terms of this chapter shall permit sidewalk cafe operations to begin no earlier than April 1. Any and all sidewalk cafe operations so established shall terminate no later than November 1 of the year in which the permit is issued. The term of a sidewalk café permit shall be one (1) year, beginning April 1st and terminating March 31 of the following year in which the permit is issued. Any sidewalk café permit issued after April 1st will expire on March 31 of the following year with no pro rating of the fee for part of the year. A permit issued pursuant to this section is subject to the following conditions:~~
- b. ~~A permit issued pursuant to this section may be extended for the period November 1 through March 31, subject to the following conditions:~~
  - ~~(1)~~ A separate application shall be submitted accompanied by the appropriate fee pursuant to ~~§ 562-3~~ of this chapter.
    - ~~(1) (2)~~ Sidewalk cafe furniture shall be removed during snow fall and when sidewalks are snow-covered to facilitate snow removal.
    - ~~(2) (3)~~ A minimum sixty-inch clear, unobstructed sidewalk path shall be maintained at all times.
    - ~~(3) (4)~~ No auxiliary or temporary heating appliances, devices, or systems shall be utilized or installed for outdoor cafe use unless such devices, appliances, or systems and their use have been installed and approved in accordance with the provisions of the Uniform Construction Code and/or the Uniform Fire Code.

### **562-5 Annual renewal.**

Any license for a sidewalk cafe permit and/or any permit extension issued pursuant to the terms of this chapter shall be renewed annually before April 1 and ~~November 1~~ of each year, as applicable, and at the discretion of the Mayor and Council.

**562-6 Violations and penalties.** [No Change]

**562-7 Applicability of other provisions.** [No Change]

**SECTION TWO:** Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.

**SECTION THREE:** If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

**SECTION FOUR:** This Ordinance shall take effect immediately upon its passage and adoption according to law.

Seconded by Councilman Zipprich and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Councilman Taylor	( X )	( )	( )	( )
Councilman Whelan	( X )	( )	( )	( )
Councilman Yngstrom	( X )	( )	( )	( )
Councilman Ballard	( X )	( )	( )	( )
Councilman Zipprich	( X )	( )	( )	( )
Councilman Horgan	( X )	( )	( )	( )

First Reading/Introduction: March 14, 2018  
Second Reading/Public Hearing: March 28, 2018  
Adoption: March 28, 2018

I hereby certify the above to be a true copy.

Pamela Borghi

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Pamela Borghi, Municipal Clerk